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In re Application of	:	
SHOWELL, Michael, Stanford, et al.	:	
PCT No.: PCT/US99/00800	:	DECISION ON REQUEST
U.S. Application No.: 09/889,254	:	UNDER 37 CFR 1.497(d)
International Filing Date: 14 January 1999	:	
Priority Date: None	:	
Attorney's Docket No.: CM2003F	:	
For: DETERGENT TABLETS COMPRISING A	:	
PECTATE LYASE	:	

This decision is issued in response to the "Petition And Fee To Correct Inventorship Under 37 CFR 1.48(a)" filed 01 February 2002, which has been treated as a request under 37 CFR 1.497(d) to correct inventorship. Applicants have paid the required fee.

BACKGROUND

On 14 January 1999, applicants filed international application PCT/US99/00800 which designated the United States.

On 04 August 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the international filing date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the international filing date, i.e., 14 July 2001.

On 13 July 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

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On ~~25 October~~ 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497 and the \$130 surcharge for filing the declaration after the thirty month deadline were required. The Notification also informed applicants that the failure to submit a proper response within two months of the date of the Notification would result in abandonment of the application.

On 01 February 2002, applicants filed the "Petition And Fee To Correct Inventorship Under 37 CFR 1.48(a)" considered herein. The petition seeks to add an additional inventor not

named on the international application, Glenn Steven Ward. The submission asserts that Mr. Ward was omitted from the international application without any deceptive intent, and it was accompanied by an declaration executed by the three inventors named on the international application and Mr. Ward. This submission is treated below under 37 CFR 1.497(d).

It is noted that the present submission was not submitted within two months of the 25 October 2001 mail date of the Notification Of Missing Requirements. In order to avoid abandonment of the application, and pursuant to the authorization contained in the Transmittal Letter filed by applicants on 13 July 2001, applicants' Deposit Account No. 16-2480 has been charged \$400 as the fee for a two-month extension of time. Based on this extension, the 01 February 2002 submission is considered a timely response to the Notification Of Missing Requirements. In addition, based on the same fee authorization, Deposit Account No. 16-2480 has also been charged the \$130 surcharge for filing the declaration after the thirty month deadline.

DISCUSSION

The petition to correct inventorship seeks to add Glenn Steven Ward as an inventor. The petition asserts that this correction is appropriate because Mr. Ward was incorrectly left off the international application, and this error occurred without deceptive intent. The petition was filed under 37 CFR 1.48(a); however, it is 37 CFR 1.497(d), not 37 CFR 1.48(a), which applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)).

37 CFR 1.497(d) states:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

Here, as noted above, the declaration filed on 01 February 2002 names an inventive entity different from that set forth in the international application. Specifically, it includes one inventor (Glenn Steven Ward) who was not listed as inventor on the international application. Accordingly, before the declaration filed on 01 February 2002 can be accepted, applicants must submit the materials set forth in 37 CFR 1.497(d).

A review of the materials filed by applicants' on 01 February 2002 reveals that this submission does not satisfy all the requirements of 37 CFR 1.497(d). Specifically, item (3) has not been satisfied. Applicants state in the attached "Assignee Consent" form that the assignee, Proctor & Gamble Company, consents to the addition of Mr. Ward as an inventor. However, the consent is not in the form required by 37 CFR 3.73(b) (see MPEP § 324). Specifically, the submission is not accompanied by a copy of the recorded assignment, nor does it contain a specific reference to where this assignment can be located (i.e., reel and frame number).

Before the declaration filed on 01 February 2002 may be accepted as complying with 37 CFR 1.497, applicants must submit the written consent of the assignee in the form set forth in 37 CFR 3.73(b), as required by 37 CFR 1.497(d)(3).

Because applicants have failed to satisfy all the requirements of 37 CFR 1.497(d), the request to correct inventorship cannot be granted at this time. The declaration filed on 01 February 2002 is therefore defective under 37 CFR 1.497 for failure to properly identify all the inventors currently on record for this application.

CONCLUSION

The request under 37 CFR 1.497(d) and the petition is **DISMISSED** without prejudice.

The declaration filed on 01 February 2002 is defective. In order to make the change of inventorship required to render the declaration acceptable, applicants must submit the materials required by 37 CFR 1.497(d), as discussed above.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)." Failure to file a timely and proper response will result in abandonment of the application.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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